

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL ACTION NO. 5:14-CR-00022-KDB-DSC-1**

UNITED STATES OF AMERICA,

v.

LARRY WAYNE AIKEN,

Defendant.

ORDER

THIS MATTER is before the Court on Defendant's *pro se* motion for compassionate release and home confinement under 18 U.S.C. § 3582(c)(1)(A), the First Step Act of 2018, and the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. (Doc. No. 66). Defendant seeks compassionate release for the fourth time arguing he faces a heightened risk of contracting COVID-19 while incarcerated at FCI Fort Dix and that, due to his pre-existing medical conditions, he faces a heightened risk of a severe case of COVID-19 if he were to contract the virus. (Doc. Nos. 56, 58, 63). The Government opposes the motion. Because Defendant has not met his burden to establish that a sentencing reduction is warranted under 18 U.S.C. § 3582(c), the Court will deny his motion.

The Government reports Defendant is fully vaccinated against COVID-19 having received his second dose of the Moderna vaccine on or about April 7, 2021. (Doc. No. 69). Prior to receiving the vaccine, Defendant had tested positive for COVID-19 in October 2020 and recovered. (Doc. No. 66). Additionally, Defendant's health records indicate that he has been receiving regular medical care and medications for his underlying health conditions, including his coronary condition. The CDC reports that vaccinations protect individuals from getting sick with

COVID-19, *Facts about Vaccination*, CDC (Apr. 15, 2021), www.cdc.gov/coronavirus/2019-ncov/vaccines/facts.html, and may prevent individuals from “getting seriously ill” even if they do contract the virus, *Benefits of Getting Vaccinated*, CDC (Apr. 12, 2021), www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html. The CDC also notes that vaccines currently available in the United States have been shown to be “highly effective” at preventing COVID-19.

The vaccine addresses Defendant’s concerns about contracting COVID-19 and his purported risk of severe illness should he contract the virus. Because Defendant’s vaccination significantly mitigates the risk of contracting COVID-19, Defendant cannot establish an “extraordinary and compelling” reason for compassionate release based on his concerns about contracting the virus. As such, Defendant’s Motion will be denied.

As Defendant was informed in the Court’s order denying his first motion for compassionate release, nothing in the CARES Act gives the Court a role in determining which candidates are eligible for home confinement under 18 U.S.C § 3624(c)(2).

IT IS THEREFORE ORDERED that Defendant’s Motion for Compassionate Release pursuant to 18 U.S.C. § 3582(c)(1)(A), (Doc. No. 66), is **DENIED with prejudice**.

Signed: April 27, 2021



Kenneth D. Bell
United States District Judge

